IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 12461 of 2000

For Approval and Signature:

HONOURABLE MR.JUSTICE KS JHAVERI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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STATE OF GUJARAT - Petitioner(s)

Versus

JERAMBHAI SHAMJIBHAI GAMVIT - Respondent(s)

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Appearance :
MR IM PANDYA AGP for Petitioner No(s).: 1.
MR AK CLERK for Respondent No(s).: 1.
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CORAM : HONOURABLE MR.JUSTICE KS JHAVERI

Date : 26/08/2005

ORAL JUDGMENT

1.0 The petitioner State has prayed to quash and set aside the award dated 28.02.2000 passed by the Labour Court, Navsari, in Reference No. 82 of 1986, whereby the said reference was allowed.

2.0 The brief facts of the case are that the respondent herein was working as a Watchman with the petitioner since 1982. On 14.05.1985 the services of the respondent were brought to an end. Against the said order, the respondent raised a dispute, which, ultimately, culminated into a reference before the Labour Court, Navsari. The Labour Court, by impugned award, allowed the said reference. Hence, this petition.

2.0 On 21.03.2001, while admitting the matter, this Court has passed the following order;

> "Respondent is served. None appears on his behalf. Learned AGP has been heard.
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> The impugned award of the Labour Court has been challenged on the ground that the petitioner is not an industry, that the respondent was working as daily wager workman and since the petitioner is not an industry, the law of retrenchment is not applicable to daily wagers. Direction for reinstatement given by the Labour Court is said to be contrary to the verdict of the Apex Court reported in AIR 1996 SC pg.1565. On these contentions, the petition is admitted. It shall come up for final hearing in due course.
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> The execution of the impugned award dated 28.02.2000 shall remain stayed."

3.0 I have heard learned counsel for the parties and perused the documents placed on record. In view of the subsequent decision of this Court in the case of ***Gujarat***

Forest Producers, Gatherers & Forest Workers Union v. State of Gujarat **reported in** ***2004(2) G.L.R. pg.1488***, "irrigation" is held to be an "industry" under the definition of the Industrial Disputes Act, 1947, and, therefore, the Labour Court has jurisdiction to entertain the reference. I am in complete agreement with the reasonings given by and the findings arrived at by the Labour Court in its impugned award, and hence, find no reason to interfere in this petition. Therefore, the petition deserves to be dismissed.

4.0 In the result, the petition is dismissed. Rule is discharged with no order as to costs.

(K. S. JHAVERI, J.)

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